

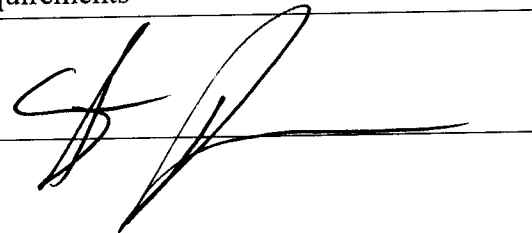
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<b>Section:</b>	Community Policy Management Section	<b>Effective Date:</b>	10/4/2010
<b>Team:</b>	LME Team	<b>Policy No.</b>	LME - 101
<b>Subject:</b>	DMH/DD/SAS CABHA Certification Requirements	<b>Revision date :</b>	

**Approved By:**



**Approval Date:**

10/4/2010

**Purpose:**

The purpose of this policy is to set forth the certification requirements for a Critical Access Behavioral Health Agency (CABHA), as described in the North Carolina State Plan for Medical Assistance, and to specify the procedures for CABHA providers to appeal decisions of the Department of Health and Human Services (DHHS) to deny, suspend or terminate CABHA certification.

**Scope:**

The requirements of this policy do not apply to services provided under the Community Alternatives Program for Persons with Mental Retardation/ Development Disabilities (CAP-MR/DD) Waiver or to providers of other services for individuals with intellectual/developmental disability diagnoses.

**Policy Statement:**

It is the policy of DHHS to ensure that mental health and substance abuse services are delivered within a clinically sound provider organization with appropriate medical oversight. The goals of CABHA implementation are as follows: to increase economies of scale and efficiencies in the service system; to increase consumer, family, and stakeholder confidence in the provider network; to reduce clinical fragmentation and increase provider "first responder" capacity; to increase accountability within the mental health/substance abuse service system; and to provide a competent clinical platform on which to implement best practice service models.

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**Enforcement:**

This policy will be enforced by the Local Management Entity (LME) Systems Performance Team of the Community Policy Management Section, Division of Mental Health, Developmental Disability and Substance Abuse Services (DMH/DD/SAS). The Operations Support Section will administer the Appeals process referenced in this policy.

**Exceptions:**

None



**Procedures:**

**I. DEFINITIONS**

(a) The following definitions shall apply throughout this policy:

- (1) "ABAM" means the certification of a physician by the American Board of Addiction Medicine (from 2009-continuing to the present).
- (2) "Applicant" means the individual or entity seeking Critical Access Behavioral Health Agency (CABHA) certification.
- (3) "ASAM" means the certification of a physician by the American Society of Addiction Medicine (from 1986-2008).
- (4) "Attestation Letter" means the document submitted by a provider attesting to the fact that the provider meets the qualifications to be certified as a Critical Access Behavioral Healthcare Agency (CABHA).
- (5) "CABHA" means a Critical Access Behavioral Health Agency that has been certified by the Department as meeting all requirements of this policy.
- (6) "CMS" means the federal Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services.
- (7) "Consumer" means an individual referred for, or receiving, behavioral health, mental health or substance abuse (MH/SA) services.
- (8) "Continuum of care" means the coordinated delivery, management and organization of age and diagnosis specific services related to treatment, care, rehabilitation and health promotion in a manner that allows the consumer to access different levels of care depending upon treatment needs and medical necessity.
- (9) "Core Services" mean Medication Management, Outpatient Therapy and Comprehensive Clinical Assessment, as described in the North Carolina State Plan for Medical Assistance and duly promulgated medical coverage policy.

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- (10) "Default" means the CABHA has failed to reimburse the Department for an overpayment, penalty or fine within 30 days of demand or is delinquent on a payment plan. A provider is in delinquent status when the payment is 14 days past due.
- (11) "Desk Review" means the initial review performed by the DMH/DD/SAS after submission of the attestation letter and supporting documentation.
- (12) "FTE" means Full Time Equivalent.
  - (A) One hundred percent FTE equals 40 hours per week.
  - (B) Fifty percent FTE equals 20 hours per week.
  - (C) Twenty percent FTE equals 8 hours per week.
- (13) "Interview" means the review conference conducted in accordance with Rule 10A NCAC 22P .0502.
- (14) "LME" means a Local Management Entity as that term is defined in N.C. Gen. Stat. §122C-3(20b).
- (15) "Performance Bond" means a third party's agreement to guarantee the fulfillment of the monetary obligations of the CABHA upon default.
- (16) "Suspension" means a time period, not to exceed twelve (12) months, determined by the Department, during which the CABHA may not bill Medicaid for services that require CABHA certification.
- (17) "Vacant" or "Vacancy" means that no individual is employed or contracted to fill a designated position or that the minimum FTE percentage rate required for the position is not met.
- (18) "Verification Review" means the review performed by staff from DHHS and/or the LME to confirm an applicant's compliance with the provisions of this Policy.

## **II. SERVICE DELIVERY**

- (a) Each CABHA shall provide the following core services:
  - (1) Comprehensive Clinical Assessment as authorized in the N.C. State Plan for Medical Assistance and covered under Medicaid Clinical Coverage Policy Nos. 8A and 8C;
  - (2) Outpatient Therapy as authorized in the N.C. State Plan for Medical Assistance and covered under Medicaid Clinical Coverage Policy No. 8C; and
  - (3) Medication Management as authorized in the N.C. State Plan for Medical Assistance and covered under Medicaid Clinical Coverage Policy No. 8C.
- (b) Each CABHA shall provide at least two additional MH/SA services, as authorized in the N.C. State Plan for Medical Assistance, from the following list for which the agency has received site and service specific endorsement from the LME in the same catchment area where it provides the core services:
  - (1) Intensive In-Home (IIH);
  - (2) Community Support Team (CST);
  - (3) Substance Abuse Intensive Outpatient Program (SAIOP);
  - (4) Substance Abuse Comprehensive Outpatient Treatment (SACOT);

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- (5) Child and Adolescent Residential Treatment Level II—Family and Program Type, Level III, or Level IV;
    - (A) Provision of multiple residential service levels counts as one service.
  - (6) Child and Adolescent Day Treatment (DT);
  - (7) Psychosocial Rehabilitation (PSR);
  - (8) Assertive Community Treatment Team (ACTT);
  - (9) Multi-Systemic Therapy (MST);
  - (10) (10)Partial Hospitalization (PH);
  - (11) Substance Abuse Medically Monitored Community Residential Treatment;
  - (12) Substance Abuse Non-Medical Community Residential Treatment;
  - (13) Outpatient Opioid Treatment (OOT); and
  - (14) Any other service when approved by CMS and required to be delivered by a CABHA as set forth in the N.C. State Plan for Medical Assistance.
- (c) All Community Intervention Services (CIS), Residential Services and Core Services must be provided by staff directly employed or under contract by the CABHA.
- (d) The two additional services specified above must be age and diagnosis specific and each must be provided within a thirty-five (35) mile radius of where the Core Services are provided.
- (e) The required services must be used to provide an age and diagnosis specific continuum of care.
- (f) A provider of IIH, DT or CST that does not achieve certification as a CABHA by December 31, 2010 shall have its endorsement to provide IIH, DT, and/or CST involuntarily withdrawn by the LME, and its Medicaid Administrative Participation Agreement(s) for IIH, DT, and/or CST shall be terminated.
- (g) To ensure coordination of care, a CABHA shall:
- (1) Participate in team meetings, share clinical and service record information, collaborate, communicate regularly, and coordinate supports and services with primary care physicians, public health departments, Federally Qualified Health Clinics, Community Care of North Carolina/Carolina ACCESS (CCNC/CA), LMEs, other CABHAs, and other programs that contract with the Department to provide primary care case management for recipients of publicly-funded health and related services, in order to ensure that consumers being served are treated in a holistic manner that addresses both their behavioral and physical health care needs.
  - (2) Maintain a Memorandum of Agreement or a contract with any Independent Practitioner the CABHA engages to deliver services to consumers.
  - (3) Timely provide complete copies of consumer medical records when transferring or referring the care for a consumer to another provider for any reason. “Timely” means within two business days of notification that the consumer is transferring to another provider. Failure to provide complete copies of consumer medical records in accordance with this policy may result in suspension or termination of CABHA certification.

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- (4) Begin the transition to adult services for a child consumer at least six (6) months before the child's 21st birthday for Medicaid or at least six (6) months before the child's 18th birthday for State and Federal block grant funded services.
- (h) A CABHA must maintain and make available records that demonstrate a pattern of timely consumer transfers and referrals to medically necessary services, whether those services are offered by the CABHA or not, based on:
  - (1) The choice of service provider by the consumer or consumer's family;
  - (2) A Comprehensive Clinical Assessment recommendation for services;
  - (3) The recommendation for services resulting from a PCP or other treatment plan review;
  - (4) The denial of eligibility for service(s) by the Medicaid utilization review contractor;
  - (5) Any other source of determinations of medically necessary service(s).

### **III. ACCESS TO CARE**

- (a) CABHA certification shall be for the one service site identified by the applicant in the attestation letter. After attaining certification, a CABHA may provide MH/SA services in any part of the state provided that each service is endorsed by the applicable LME, if required.
- (b) CABHAs shall participate in monitoring and reporting of standardized indicators of timely and effective consumer access to care, including, but not limited to, screening, triage, and referral, appointment scheduling, initiation, engagement and retention in treatment, and service transition, including review of consumer wait times for initial agency contact, screening, comprehensive clinical assessment or diagnostic evaluation, psychiatric evaluation, medication management, and initial delivery of treatment services.
- (c) CABHAs shall provide reasonably prompt service(s) for persons in need of emergent, urgent, and routine MH/SA services through the delivery of face-to-face emergency care, assessment, treatment or referral services by a Qualified Professional as defined in 10A NCAC 27G .0104(18) or (19). These services shall be delivered within standard timeframes following the request for care as adopted by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS), and that are consistent with generally accepted standards and guidelines recommended by national accrediting organizations, designated federal and state agencies, and other entities that promote standards of care for behavioral health agencies such as CMS.
  - (1) An emergent consumer presents with an immediate risk or incapacitation in one or more areas of safety or physical, cognitive, or behavioral functioning related to a MH/SA diagnosis
  - (2) An urgent consumer presents with a moderate risk or incapacitation in one or more areas of safety or physical, cognitive, or behavioral functioning related to a MH/SA diagnosis.
  - (3) A routine consumer presents with mild risk or incapacitation in one or more areas of safety or physical, cognitive, or behavioral functioning related to a MH/SA diagnosis.

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- (d) CABHAs shall provide sufficient appointment times to the Local Management Entity Access Unit to ensure prompt access and availability of emergent, urgent and routine care and appointments for consumers referred by the LME.
- (e) CABHAs who accept the referral and responsibility for care of consumers being discharged from a state-operated facility shall ensure the delivery of community-based service(s) to the consumer within seven (7) days of such discharge.

**IV. COORDINATION OF BENEFITS**

- (a) CABHAs shall utilize Federal, State and local funding only if and when other sources of first and third party payment have been exhausted.
- (b) CABHAs shall verify all insurance and other third party benefit plan details during first contact, so that consumers are directed to appropriate providers and to comply with North Carolina law.
- (c) CABHAs shall bill private insurance plans and Medicare, when available and applicable, before billing the NC Medicaid program. Medicaid is the payor of last resort.

**V. CERTIFICATION REQUIREMENTS**

- (a) All statutory, rule and Department policy requirements for Medicaid-reimbursable MH/SA service provision and monitoring apply to CABHAs, including medical coverage policies, endorsement, licensure, accreditation, incident reporting, standardized outcomes and perception of care reporting, quality of care reporting, Medicaid billing, client rights and confidentiality, client data service records policies and requirements, and the terms and conditions of the Medicaid Provider Administrative Participation Agreement. Copies of surveys, reviews and audits performed by regulatory authorities shall be provided to DMH/DD/SAS upon receipt by the CABHA.
- (b) A CABHA applicant must have an accreditation that is valid for a minimum period of three years in accordance with N.C.G.S. §122C-81(b) from the Council on Accreditation [COA], the Commission on Accreditation and Rehabilitation Facilities [CARF], the Council on Quality and Leadership [CQL], or The Joint Commission [TJC], formerly known as the Joint Commission on Accreditation of Healthcare Organizations. Copies of surveys, reviews and audits performed by accrediting agencies shall be provided to the LME upon receipt by the CABHA.
- (c) A CABHA applicant must employ a Medical Director, Clinical Director, Quality Management Director and Training Director who meet CABHA requirements at least 30 days prior to the agency being scheduled for the CABHA interview.
  - (1) The Clinical Director, Quality Management Director and Training Director must be employees of the agency.
  - (2) The Medical Director may be an independent contractor, as defined by federal and state law, of the agency.
- (d) A CABHA applicant must be in good standing with the following:

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- (1) All applicable Divisions of the Department as set forth in Section VII of this policy;
  - (2) The North Carolina Secretary of State's Office;
  - (3) The Internal Revenue Service;
  - (4) The U.S. Department of Labor, and
  - (5) The North Carolina Departments of Labor and Revenue.
- (e) To obtain CABHA certification, an applicant must successfully complete the desk review, interview, and verification review performed by DMH/DD/SAS and LME staff.
- (f) Within thirty (30) days of certification or, if already certified, within thirty (30) days of the adoption of this Policy, all certified CABHAs must obtain and submit evidence to DMA Provider Enrollment of a performance bond or executed letter of credit in an amount equal to ten percent of the provider's annual Medicaid payments for all MH/SA provider numbers associated with the CABHA, as determined from Medicaid claims data, or fifty thousand (\$50,000.00) dollars, whichever is greater. The performance bond must be obtained from a surety company that has been issued a Certificate of Authority by the United States Department of Treasury. The bond or letter of credit must name the provider as "principal," the Division of Medical Assistance as "beneficiary" and the surety company as "surety." Upon default by a CABHA, the Department will seek payment of any balance due from the performance bond or executed letter of credit. Execution on the bond or letter of credit does not void the payment plan to the extent a balance remains. A surety's payment to the Department under a performance bond or the payment by a financial institution to the Department from an executed letter of credit constitutes a basis for termination of CABHA certification.
- (g) CABHA certification is valid for a maximum period of three (3) years from the effective certification date. Each CABHA shall be required to be re-certified every three years. The recertification process will include a review by the Department of CABHA specific performance data and monitoring results collected over the previous three years and a review of internal quality improvement activities to address patterns of outcomes, complaints, incidents, and clinical issues. CABHA recertification may include a desk review, on-site review, or both.

## **VI. GOOD STANDING**

- (a) A provider is not in good standing with the Department if any of the following conditions are present, regardless of any appeal filed by the provider:
- (1) The provider owes an outstanding (more than thirty days past due from the date of notification) accounts receivable to the Department, including but not limited to Medicaid overpayments, cost settlements, penalties and interest. A provider that entered into an approved payment plan in accordance with 10A NCAC 22F .0601(a), and who has made all payments on time and in full, and has met all other requirements that may be in the payment plan agreement, is considered to be in good standing.

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- (2) The provider was terminated, suspended, had its Medicaid payments withheld, or placed on probation by DMA in the twelve (12) month period preceding the date of submission of the Letter of Attestation;
  - (3) The provider is required to submit its Medicaid claims for prepayment claims review to DMA or its contractor;
  - (4) The owners of the provider agency were previously the owners, operators, or managing employee(s) of a provider agency which had its participation in the N.C. Medicaid program involuntarily terminated for any reason or owes an outstanding accounts receivable to the Department, irrespective of whether the provider agency is currently enrolled in the N.C. Medicaid program;
  - (5) The provider and its owners, operators and managing employee(s) are listed on the U.S. HHS Office of Inspector General Exclusion list;
  - (6) The provider, or its corporate parent, has unresolved tax or payroll liabilities owed to the U.S. or N.C. Departments of Revenue or Labor;
  - (7) The provider abandoned or destroyed patient medical records or staff records in violation of federal or state law, rule or regulation;
  - (8) The owners of the provider agency were previously the owners, operators, or managing employee(s) of a provider agency which abandoned or destroyed patient medical records or staff records in violation of federal or state law, rule or regulation;
  - (9) The provider has an open Plan of Correction (POC) with the DMH/DD/SAS Accountability Team. A POC must be timely submitted, approved, and implemented before the POC action can be closed. A POC is fully implemented when the POC is being followed and all out of compliance findings have been minimized or eliminated, as determined by DMH/DD/SAS in a maximum of two follow-up reviews. The POC action is closed when the provider receives the official notification from the DMH/DD/SAS Accountability Team stating the action is closed;
  - (10) The provider's endorsement to provide an enhanced service was involuntarily withdrawn by any Local Management Entity in the twelve (12) month period preceding the date of submission of the Letter of Attestation, and the endorsement action was upheld by the DMH/DD/SAS Appeals Panel; and
  - (11) If the provider is subject to licensure requirements, the provider fails to meet any of the requirements for enrollment and/or licensure set forth in N.C.G.S. §122C-23 (e1).
- (b) If incorporated or otherwise applicable, the provider must have, and be able to produce upon request, a current, valid Certificate of Existence issued by the N.C. Secretary of State's Office in order to be in good standing with the Department.

## **VII. MEDICAL DIRECTOR REQUIREMENTS**

- (a) The Medical Director shall be enrolled and in good standing with NC Medicaid and either:
  - (1) A Board certified/eligible psychiatrist (MD or DO) licensed in NC; or



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- (2) A Board certified/eligible physician licensed in NC who has ASAM/ABAM certification if delivering substance abuse services; or
  - (3) Upon approval by the Director of DMA or his designee in an exception process as set out below, a physician (MD or DO) licensed in NC who is board certified/eligible in General Family Practice, Internal Medicine or Pediatrics.
- (b) The Medical Director shall have two or more years of training and experience diagnosing, treating and evaluating the effectiveness of treatment of the age and diagnosis specific population to be served by the Critical Access Behavioral Health Agency (CABHA), which shall include face to face treatment and interventions as demonstrated by a caseload of consumers with primary mental health or substance abuse disorder diagnoses, and the purpose of the treatment by the physician is related to the mental health or substance abuse diagnosis. Experience attesting to the medical necessity of MH/SA services does not constitute direct service.
- (c) The Medical Director shall be employed by, or an independent contractor with, the CABHA, as follows:
- (1) A CABHA that serves 750 or more consumers must have a 100% FTE Medical Director, such position to be filled by no more than two physicians. A 100% FTE Medical Director may provide up to 24 hours of direct billable services per week for the CABHA.
  - (2) A CABHA that serves between 376 to 749 consumers must have at least a 50% FTE Medical Director, such position to be filled by no more than one physician. A 50% FTE Medical Director may provide up to 12 hours of direct billable services per week for the CABHA.
  - (3) A CABHA that serves 375 or fewer consumers must have at least a 20% FTE Medical Director, such position to be filled by no more than one physician. A 20% FTE Medical Director may not provide direct billable services for the CABHA, unless additional hours of direct billable services are stipulated under a separate contract with the CABHA.
  - (4) A physician may serve as a 50% or less FTE Medical Director for no more than two (2) separate CABHAs.
- (d) The number of consumers served is based on the most recent quarter for which reasonably complete Medicaid and IPRS claims data is available. For initial CABHA certification, the number is based on the 30 day period preceding the Verification Review.
- (e) A CABHA that serves 750 or more consumers at any site other than the CABHA certification site must designate a Lead Physician for that site. The Lead Physician must meet the same qualifications as the Medical Director, provide management and oversight of the outlying service site, and be directly supervised by the CABHA Medical Director.
- (f) The CABHA shall notify the DMH/DD/SAS Director in writing if a Medical Director position becomes vacant within ten business days of such vacancy:
- (1) Vacancy of the CABHA's Medical Director position for 90 consecutive calendar days or more shall result in suspension of CABHA certification and a CABHA certification review shall be conducted by the Department.

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- (2) Vacancy of the CABHA's Medical Director position for 180 consecutive calendar days or more shall result in termination of CABHA certification regardless of attempts made to fill the position.
- (3) Failure to notify DMH/DD/SAS within ten business days of the Medical Director vacancy shall result in termination of CABHA certification.
- (g) The CABHA shall develop a job description, employment contract, and policies and procedures for the Medical Director position which require the Medical Director to:
  - (1) Provide direct medical, clinical, and quality management oversight of the entire CABHA agency including direct responsibility for the agency's compliance and practice improvement efforts consistent with all national accreditation standards and regulations pertaining to medical, nursing and clinical behavioral health care.
  - (2) Develop and implement internal policies and procedures for consumer admission, reevaluation, transfer and discharge, and the delivery of high-quality, medically necessary services and treatments that are clinically appropriate, current, follow accepted guidelines and community practice standards, are not experimental in nature, and are in compliance with North Carolina Medical Board and Psychology Board guidelines.
  - (3) Identify and implement models of care for the age and diagnosis specific populations served that are person and family centered, evidence-based, demonstrate fidelity to a best practice model and provide a continuum of care approach for consumers.
  - (4) Require staff to complete quality, comprehensive psychiatric evaluations and clinical assessments, including age and diagnosis specific level of care determinations in a timely manner.
  - (5) Supervise, monitor and direct agency clinical staff, including but not limited to physicians, nurse practitioners, and physician's assistants who may be serving the CABHA in other locations, through a regular physical presence in the agency, or through the use of videoconferencing, including participation in peer review and quality of care audits.
  - (6) Participate in staffing, consultation, and clinical case review of complex or high risk consumers and other cases as appropriate and coordinate clinical team meetings with the Clinical Director and other appropriate CABHA staff.
  - (7) Review all consumer, staff, and stakeholder health and safety concerns, including individual consumer and aggregate agency incidents, seclusions, restraints, elopements, medication errors, consumer and staff injuries, and assume primary review, remediation, monitoring, and related reporting responsibilities to appropriate local, state, and national regulatory and accreditation agencies in cases involving the following:
    - (A) Medication diversion;
    - (B) Any allegation or suspicion of physical or sexual assault, abuse, or neglect;
    - (C) Any serious injury or significant potential for injury of a consumer, or staff member;

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- (D) Any death of a consumer who received services from the CABHA within the previous 120 calendar days;
  - (E) Any sudden, unexpected, or suspicious death of a consumer's minor child or dependent adult; or
  - (F) Any adverse event where reporting is recommended due to the importance of public accountability.
  - (8) Develop appropriate communication and referral practices and collaborative relationships with the LME Medical Director(s), consumers' primary care physicians and other providers regarding issues related to consumers/families and the local system of care.
  - (9) Provide supervision and oversight of CABHA medication evaluation and administration, including review of laboratory medical tests, dosing regimes and effectiveness, adverse drug reactions and side effects, patient, family, and staff medication education, and appropriate utilization of the NC Controlled Substance Reporting System (CSRS).
  - (10) Serve as an active member of the agency's leadership team and participate in a significant role on the Quality Management Committee and on subcommittees as designated by the agency. Participate in the identification, review, and response to individual consumer and aggregate services data, including monitoring of trend data related to agency patterns and effectiveness in consumer care. Analyses shall include evaluation of consumer services access, engagement and retention, service quality, appropriateness, and effectiveness. Evaluation shall include crisis services and inpatient hospital utilization, service costs, efficiency, accountability, and standardized consumer outcomes and perception of care.
- (h) Failure to implement the above Medical Director requirements, as determined by Department or LME monitoring visits, may result in CABHA decertification.

## **VIII. CLINICAL DIRECTOR REQUIREMENTS**

(a) The Clinical Director shall:

- (1) Be a Board certified/eligible psychiatrist (MD or DO) licensed in NC, or a Board certified/eligible physician licensed in NC who has ASAM/ABAM certification if delivering substance abuse services or be a licensed professional in one of the following licensed discipline categories:
  - (A) a NC Licensed Clinical Social Worker; or
  - (B) a NC Licensed Psychologist; or
  - (C) a NC Licensed Psychological Associate; or
  - (D) a NC Licensed Professional Counselor; or
  - (E) a NC Licensed Marriage and Family Therapist; or
  - (F) a NC Licensed Nurse Practitioner; or
  - (G) a NC Licensed Clinical Addiction Specialist; or
  - (H) a NC Certified Clinical Supervisor.

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- (2) Have two or more years of full time, direct service experience to include face to face treatment and interventions as demonstrated by having provided services for a caseload of consumers with a primary mental health disorder diagnosis for a Critical Access Behavioral Health Agency (CABHA) designated to serve mental health consumers or by a caseload of consumers with a substance abuse disorder diagnosis for a CABHA designated to serve substance abuse consumers. Experience attesting to the medical necessity of MH/SA services does not meet this requirement. The treatment and interventions provided by the Clinical Director shall relate to the mental health or substance abuse diagnosis of the consumers served.
  - (3) Be directly employed by the CABHA and the position shall be shared by no more than two individuals, who shall each work at least 20 hours per week for the CABHA.
- (b) Individuals with provisional licenses may not serve as the Clinical Director.
- (c) A CABHA that is required to employ a 100% FTE Medical Director and who fills this position with a psychiatrist or ASAM or ABAM certified physician may have one individual fill both the Medical Director and Clinical Director positions.
  - (1) An individual who serves as both Medical Director and Clinical Director shall not provide direct services for the CABHA.
  - (2) A Medical Director approved pursuant to the exception process may not serve as the Clinical Director.
- (d) The CABHA shall notify the DMH/DD/SAS Director in writing if a Clinical Director position becomes vacant within ten (10) business days of such vacancy:
  - (1) Vacancy of the CABHA's Clinical Director position for 60 consecutive calendar days or more shall result in suspension of CABHA certification and may result in a monitoring visit.
  - (2) Vacancy of the CABHA's Clinical Director position for 90 consecutive calendar days or more shall result in termination of CABHA certification regardless of attempts made to fill the position.
  - (3) Failure to notify DMH/DD/SAS within ten (10) business days of the Clinical Director vacancy shall result in termination of CABHA certification.
  - (4) If the Medical Director and Clinical Director positions are filled by one individual and the position becomes vacant, the CABHA must fill the Clinical Director vacancy within 45 days or contract on a temporary basis for a Clinical Director, such contract to be in effect no longer than 180 days. An individual who serves as Clinical Director on a temporary basis must meet all qualifications set forth in this Section.
- (e) A 100% FTE Clinical Director may not provide direct, billable services to consumers. If the Clinical Director position is filled by two 50% FTE staff, these individuals may provide direct, billable services separate and apart from the 20 hours per week each operates as the Clinical Director.
- (f) The CABHA shall develop a job description, employment contract, and policies and procedures for the Clinical Director position which require the Clinical Director to:

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- (1) Supervise all non-medical clinical staff;
  - (2) Design and support implementation of treatment and best practice protocols in collaboration with the Medical Director;
  - (3) Collaborate with the Quality Management Director and Training Director to develop plans and protocols for new clinical and program staff training and supervision;
  - (4) Develop collaborative relationships with the LME Medical Director, consumers' primary care physicians and other providers regarding issues related to consumers/families and the local system of care; and
  - (5) Monitor and track data regarding delivery and quality of treatment services, including data on core services, emergency admissions, psychiatric hospitalization, and operational, service and personal outcomes and recovery goals.
- (g) Failure to implement the above Clinical Director requirements, as determined by Department or LME monitoring visits, may result in CABHA decertification.

**IX. QUALITY MANAGEMENT DIRECTOR**

- (a) The Critical Access Behavioral Health Agency (CABHA) is required to have a 50% FTE Quality Management Director.
- (b) The Quality Management Director must have either:
  - (1) A Bachelors Degree from an institution of higher learning accredited by an accrediting body recognized by the U.S. Department of Education in a field of health, behavioral health, rehabilitation, human services, human development, education, social sciences, criminal justice, administration, management, organizational development, information management, business, or a related field or discipline and three years of experience gathering and analyzing data for quality management, quality assurance and/or quality improvement for a human services provider agency or an equivalent combination of training and experience; or
  - (2) A Masters Degree from an accredited institution of higher learning accredited by an accrediting body recognized by the U.S. Department of Education, in a field of health, behavioral health, rehabilitation, human services, human development, education, social sciences, criminal justice, administration, management, organizational development, information management, business, or a related field or discipline and one year of experience gathering and analyzing data for quality management, quality assurance and/or quality improvement for a human services provider agency or an equivalent combination of training and experience.
- (c) The CABHA shall develop a job description, employment contract, and policies and procedures for the Quality Management Director which requires the Quality Management Director to:
  - (1) Design, implement, supervise and monitor quality assurance and quality improvement for the CABHA;

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- (2) Develop, implement, and regularly evaluate and revise the agency's annual quality improvement/quality assurance plan;
  - (3) Develop agency-wide quality assurance and quality improvement processes with continuous staff, consumer, family, stakeholder, and management involvement;
  - (4) Supervise and staff the quality management committee and subcommittees to establish and review agency data and performance indicators. Develop and monitor actions to address individual and aggregate trends, including incidents, adverse events, complaints, grievances, and quality of care measures including consumer access, referral, transition, engagement, retention, and individual and aggregate outcomes;
  - (5) Supervise and direct staff to comply with all consumer data and records documentation requirements, staff qualifications, evidence-based practices training, implementation, supervision, evaluation and fidelity monitoring, accreditation standards, reaccreditation requirements and reporting, auditing, and regulatory review requirements of federal, state, and local agencies;
- (d) The Quality Management Director and the Training Director positions can be filled by the same person or by no more than two individuals.
- (e) An individual who serves as both the Quality Management Director and Training Director for a CABHA agency may not provide direct, billable services to consumers. This individual must spend 50% of their time in Quality Management activities and 50% of their time in Training Director activities. If the Quality Management Director and Training Director positions are filled by two 50% FTE staff, these individuals may provide direct, billable services separate and apart from the 20 hours per week each operates as the Quality Management Director and as the Training Director.
- (f) An individual who serves as both Quality Management and Training Director for a CABHA agency must meet education and minimum experience requirements for both positions.
- (g) Failure to implement the above Quality Management Director requirements, as determined by Department or LME monitoring visits, may result in CABHA decertification.

**X. TRAINING DIRECTOR**

- (a) The CABHA is required to have a 50% FTE Training Director.
- (b) The Training Director must have either:
- (1) A Bachelors Degree from an accredited institution of higher learning accredited by an accrediting body recognized by the U.S. Department of Education in a field of health, behavioral health, rehabilitation, human services, human development, education, social sciences, criminal justice, administration, management, organizational development, information management, business, or a related field or discipline and three years of experience in planning, coordinating, delivering, and/or evaluating training or education related to consumer health, behavioral health, education, wellness, recovery, human development, disabilities, social services, public safety, employment, vocational education, vocational

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- rehabilitation, housing, transportation, recreation, human rights, or justice or in training clinical staff, or an equivalent combination of training and experience; or
- (2) A Masters Degree from an accredited institution of higher learning accredited by an accrediting body recognized by the U.S. Department of Education in a field of health, behavioral health, rehabilitation, human services, human development, education, social sciences, criminal justice, administration, management, organizational development, information management, business, or a related field or discipline and one year of experience in planning, coordinating, delivering, and/or evaluating training or education related to consumer health, behavioral health, education, wellness, recovery, human development, disabilities, social services, public safety, employment, vocational education, vocational rehabilitation, housing, transportation, recreation, human rights, or justice or in training clinical staff, or an equivalent combination of training and experience.
- (c) The CABHA shall develop a job description, employment contract, and policies and procedures for the Training Director which require the Training Director to develop and implement an annual strategic training plan that:
- (1) Reflects the agency's vision, mission and guiding principles;
  - (2) Includes goals/objectives, methods, budget and expected outcomes for the agency;
  - (3) Indicates that evidence-based training methods will be utilized;
  - (4) Identifies instructional training system design and development principles;
  - (5) Indicates the use of technology to increase access to and the effectiveness of training;
  - (6) Identifies implementation strategies to support and sustain the use of clinical skills in supporting the continuum of care within the agency;
  - (7) Implements training required by DMH/DD/SAS and DMA Clinical Coverage Policies; and
  - (8) Ensures there is sufficient access to training and education opportunities, especially in rural areas and for culturally diverse populations.
- (d) The Training Director shall:
- (1) Maintain and produce to the Department upon request training records which demonstrate that staff has the competencies to deliver integrated behavioral health care, emphasizing evidence-based practice, best practice and quality improvement approaches, and that supervisors have competencies to mentor and supervise staff in these practices;
  - (2) Plan, organize and direct all training activities;
  - (3) Identify organizational, departmental and service training needs within the agency;
  - (4) Conduct orientation sessions and arrange on-the-job training for new employees;
  - (5) Establish individualized training plans to strengthen an employee's existing skills or teach new ones;
  - (6) Develop and offer supervisory training for staff in supervisory positions; and

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- (7) Apply effective training principles and periodically evaluate training effectiveness.
- (e) Failure to implement the Training Director requirements, as determined by Department or LME monitoring visits, may result in CABHA decertification.
- (f) The Quality Management Director and the Training Director positions can be filled by the same person or by no more than two individuals.
- (g) An individual who serves as both the Quality Management Director and Training Director for a CABHA agency may not provide direct, billable services to consumers. If the Quality Management Director and Training Director position is filled by two 50% FTE staff, these individuals may provide direct, billable services separate and apart from the 20 hours per week each operates as the Quality Management Director and as the Training Director.
- (h) An individual who serves as both Quality Management and Training Director for a CABHA agency must meet education and minimum experience requirements for both positions.

**XI. EXCEPTION PROCESS**

- (a) A request for an exception to the Medical Director position shall be in writing and shall contain:
  - (1) The name, address and telephone number of the person making the request;
  - (2) The name, address and telephone number of the applicant for which the exception is requested;
  - (3) A statement of the facts including:
    - (A) The reason(s) for the request;
    - (B) The reason(s) why the Medical Director position cannot be filled by a Board certified/eligible psychiatrist or physician;
    - (C) The name and curriculum vita of the physician (MD or DO) licensed in NC who is board certified/eligible in General Family Practice, Internal Medicine or Pediatrics for the Medical Director position; and
    - (D) The reason(s) why the physician (MD or DO) licensed in NC who is board certified/eligible in General Family Practice, Internal Medicine or Pediatrics is eligible and qualified to fill the Medical Director position.
- (b) The request for an exception shall be included in the attestation packet or sent to the DMA Director at 2501 Mail Service Center, Raleigh, NC 27699-2501.
- (c) The DMA Director, or his designee(s), may interview the proposed Medical Director and waive the Medical Director professional requirements and approve an exception based upon, but not limited to, the following:
  - (1) The factual situation giving rise to the exception request;
  - (2) The determination that the exception will not affect the health, safety, or welfare of consumers;
  - (3) The qualifications and experience of the individual seeking to fill the Medical Director position; and
  - (4) Consumer access to care.



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- (d) The Director, or his designee, shall issue the exception decision in writing and state the reasons why the request for exception was granted or denied.
- (e) The decision to deny the exception request may be appealed in accordance with this policy.
- (f) The Secretary may make exceptions to this policy for a teaching hospital that operates a graduate medical education (GME) program, as those terms are defined in 42 CFR § 415.152, where quality of care would not be adversely impacted.

## **XII. LETTER OF ATTESTATION AND DESK REVIEW**

- (a) An applicant which seeks CABHA certification must submit a complete attestation letter and all necessary supporting documentation to the DMH/DD/SAS Director.
- (b) Necessary supporting documentation to meet CABHA requirements includes:
  - (1) Evidence of national accreditation;
  - (2) Evidence of provision of the three Core Services and two additional services as described in Section III of this policy that together create an age and diagnosis specific continuum of care;
  - (3) Identification of all of the applicant's Medicaid billing numbers;
  - (4) List of all CABHA site location addresses and evidence that the Core Services are provided at the CABHA site location and the two required additional services are provided within a thirty-five mile radius of that location;
  - (5) Copies of all necessary licenses and endorsements;
  - (6) Copies of licenses, diplomas and curricula vitae for the Medical Director, Clinical Director, Quality Management Director and Training Director;
  - (7) Written explanation indicating how the management structure and clinical structure of the applicant support the age and diagnosis specific continuum;
  - (8) Copy of quality management plan submitted to the national accrediting body or current quality management plan and any quality improvement plan/plan of correction required by the national accrediting body regarding the quality management plan;
  - (9) Copies of written and signed job descriptions that meet the staffing requirements for the Medical Director, Clinical Director, Quality Management Director, and Training Director; and
  - (10) A Certificate of Existence from the N.C. Secretary of State's Office.
- (c) Following receipt of the attestation letter and supporting documentation, the DMH/DD/SAS will conduct a desk review to ensure that the applicant meets basic requirements for CABHA certification.
- (d) The Desk Review includes the determination of the applicant's "good standing" status in the Department.
- (e) Upon completion of the desk review, DMH/DD/SAS shall notify the applicant that either:
  - (1) The applicant passed the desk review and the Department will schedule an interview; or
  - (2) The applicant's attestation letter and supporting documentation do not meet CABHA certification requirements and the applicant did not pass the desk review.

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- (f) An applicant who does not pass the desk review may either:
  - (1) Resubmit the attestation letter and supporting documentation at such time as it meets CABHA certification requirements; or
  - (2) Appeal the determination in accordance with this policy.
- (g) An applicant shall have three opportunities to submit an attestation letter and supporting documentation for review by the Department. Failure to pass the Desk Review after the third submission shall result in the applicant's inability to re-apply for a period of six (6) months from the date of the letter notifying the applicant of failure to pass the desk review.

### **XIII. INTERVIEW**

- (a) After the applicant meets the requirements of the desk review, an interview will be conducted. The purpose of the interview is to evaluate the qualifications and experience of the Medical Director, Clinical Director, Quality Management Director and Training Director to provide and support high quality behavioral health services to the age and diagnosis specific population selected, and determine whether the agency has developed and implemented acceptable medical, clinical, quality management, and training structures, processes, and systems to promote the design, delivery, evaluation and improvement of high-quality services to consumers.
- (b) DMH/DD/SAS will convene CABHA interview panels. The interview panels may be composed of staff from the DMH/DD/SAS, DMA, an LME Medical Director and licensed staff from LMEs.
- (c) The applicant's Medical Director, Clinical Director, Quality Management Director, and Training Director will be interviewed as a group, and CABHA applicant owners, Board members and/or managing employees may also be required to participate.
- (d) The interview shall be completed using standardized interview questions and the interviewers may ask follow-up questions at their discretion.
- (e) The interview shall be recorded and can be made available for transcription at the provider's request and expense. Recordings are subject to the North Carolina Public Records Act and required record retention period(s).
- (f) After completion of the interview, DMH/DD/SAS shall refer the applicant for a verification review.
- (g) DMH/DD/SAS may at its discretion, but is not required to, schedule a second interview if necessary.

### **XIV. VERIFICATION REVIEW**

- (a) A Verification Review will be conducted by Department or LME staff after completion of the interview in order to verify or confirm information presented by the applicant in the attestation letter, supporting documentation and interview that is material to the determination of whether the applicant can perform or meet the requirements of this policy.
- (b) There is only one opportunity for a Verification Review after completion of the Interview. Applicants will not be granted multiple Verification Reviews.

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- (c) After completion of the verification review, DMH/DD/SAS shall notify the applicant that either:
- (1) The applicant passed the verification review, and the Department will issue a notice of CABHA certification; or
  - (2) The Department was unable to verify the information submitted in the attestation letter and supporting documentation and certification is denied. This action results in the applicant's inability to re-apply for a period of six (6) months from the date of the letter notifying the applicant of failure to pass the Verification Review. The applicant may appeal this decision in accordance with this policy.

#### **XV. EXISTING CABHAS**

Providers who achieved CABHA certification prior to the adoption of this Policy shall have 180 calendar days from the day this Policy takes effect to come into compliance with this policy, with the exception of the performance bond requirement, which must be met within thirty (30) days of the date this Policy takes effect. Failure to do so, as determined by Department or LME monitoring visits, shall result in decertification.

#### **XVI. MONITORING**

- (a) The Department and/or the LME shall periodically conduct announced and unannounced site visits, audits, post-payment reviews, investigations, monitoring and compliance reviews of the CABHA in order to evaluate compliance with all applicable federal and state laws, rules, regulations and policies.
- (b) Monitoring will include, but is not limited to, the review of documentation and individual and aggregate data to ensure that the agency meets the requirements of this policy.
- (c) Other targeted monitoring may be completed in response to incidents, complaints, or deficiencies found during routine monitoring or DMA Program Integrity audits or at the request of any Division of the Department or an LME.
- (d) The CABHA is required to cooperate with all Department and LME staff or agents involved in the monitoring activities described in this policy.
- (e) CABHAs shall be required to successfully complete and implement a Plan of Correction in response to all deficiencies identified as a result of monitoring visits, unless the CABHA is decertified.

#### **XVII. DECERTIFICATION AND SUSPENSION**

- (a) A CABHA shall be decertified by the Department under, but not limited to, the following circumstances:
  - (1) Loss of national accreditation;
  - (2) Medical or Clinical Director vacancy as set forth above;
  - (3) A license revocation issued by DHSR pursuant to N.C.G.S. §122C-23 against any provider agency or site location owned and operated by the CABHA;

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- (4) Termination of the Medicaid Administrative Participation Agreement for any reason to provide a required service;
  - (5) A revocation issued by DMH/DD/SAS in accordance with 10A NCAC 26C for any provider agency or site location owned and operated by the CABHA ;
  - (6) Failure to fully implement a Plan of Correction.
- (b) The Department may decertify or suspend a CABHA without first requesting a Plan of Correction.
- (c) A CABHA may be decertified or suspended for a period not to exceed twelve months by the Department under, but not limited to, the following circumstances:
  - (1) The CABHA fails to meet the staffing requirements of this policy;
  - (2) Withdrawal of endorsement to provide a required service;
  - (3) Local monitoring and compliance reviews indicate the CABHA is not in compliance with the requirements of this policy or other applicable federal and state laws, rules, regulations and policies;
  - (4) Loss of good standing with DHSR, DMA, or DMH/DD/SAS for any reason; or
  - (5) Lack of good standing with the North Carolina Secretary of State's Office, the U.S. Internal Revenue Service, the U.S. Department of Labor, or the North Carolina Departments of Labor and Revenue.
- (d) If a CABHA is suspended, the agency must transition consumers who receive services required to be delivered by a CABHA to CABHA-certified providers within fifteen (15) business days of notification of suspension. The agency may submit a request for a suspension to be rescinded no sooner than one (1) month from the date of suspension if the action that caused the suspension has been rectified.
- (e) If a CABHA is decertified or suspended, the agency may re-apply after a period of six (6) months when the action that caused the decertification has been rectified and a Plan of Correction has been approved and implemented.
- (f) The CABHA may appeal decertification or suspension in accordance with this policy.
- (g) After a CABHA is decertified by the Department, the CABHA shall be subject to further sanctions by DMA to include termination from the Medicaid program.

### **XVIII. APPEAL PROCEDURES**

- (a) CABHA certification denial, suspension, or decertification may be appealed in accordance with this section.
- (b) The first review shall be a reconsideration review before the DMH/DD/SAS.
- (c) The provider shall file a written notice of appeal of the decision to deny, suspend or withdraw certification within 15 calendar days of the date of the decision.
  - (1) "File or Filing" means personal delivery, delivery by certified mail, or delivery by overnight express mail to the DMH/DD/SAS Director 3001 Mail Service Center, Raleigh, North Carolina 27699-3001. A document or paper is deemed filed as of the date it is delivered to the Director. Filings addressed to a person other than the Director, or which fail to be filed within the time periods established by this

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- policy, or which otherwise fail to be filed in conformity with this policy, shall be considered as improper filings and be denied.
- (2) After the notice of appeal is filed, the DMH/DD/SAS shall notify all parties by first class mail of the opportunity to submit all documents and written statements they wish to have considered during the reconsideration review. All documents and written statements must be filed and served upon all parties within fourteen (14) calendar days of the date on the DMH/DD/SAS's first class mail notification. If the DMH/DD/SAS affords a party or parties the opportunity for rebuttal statements, the deadline for filing such rebuttal statements shall be seven (7) calendar days from the date on the DMH/DD/SAS's notice affording rebuttal statements.
- (3) The DMH/DD/SAS:
- (A) May impose page limits for presentations;
  - (B) May allow rebuttal statements; and
  - (C) May obtain any form of legal or technical assistance or consultation relevant to the appeal.
- (d) Following the DMH/DD/SAS's reconsideration review, a decision shall be issued in writing by certified mail within sixty (60) calendar days after the notice of appeal is filed.
- (e) The provider may appeal the DMH/DD/SAS's reconsideration review decision to the Office of Administrative Hearings (OAH) in accordance with Chapter 150B of the North Carolina General Statutes within sixty (60) calendar days of the date of the decision. The provider may not file a petition with OAH until a decision is issued, unless the reconsideration review is waived by the Secretary, in which case the provider shall have sixty (60) days from the date of such waiver to file a petition with OAH.